

REMARKS

The Examiner is thanked for the Official Action mailed June 12, 2003. This Amendment and request for reconsideration is intended to be fully responsive thereto.

Although claims 8-15 have been withdrawn from consideration, Applicant notes that claim 1 is generic.

Claims 1, 4 and 16 were rejected under 35 U.S.C. §112, second paragraph, for indefinite claim language. Applicant has reviewed and amended the claims to address the issues raised by the Examiner and to adhere to the requirements of 35 U.S.C. §112. No new matter has been entered.

Claim Rejections – 35 U.S.C. §§ 102 and 103

Claims 1-6 have been rejected under 35 U.S.C. § 102(b) (hereinafter “Section 102(b)”) as being anticipated by U.S. Patent No. 5,311,935 to Yamamoto et al. (hereinafter “Yamamoto et al. ‘935”). Claims 7 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Okamoto et al. (US 4,712,612) in view of Yamamoto et al. ‘935. These rejections are respectfully traversed in view of the above amendment and the following comments.

Anticipation

Anticipation under Section 102 requires that a prior art reference disclose every claim element of the claimed invention. *E.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1574, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986). Anticipation must be found in a single reference. *E.g., Studiengesellschaft Kohle, m.b.H. v. Dart Indus., Inc.*, 726 F.2d 724, 726-27, 220 U.S.P.Q. 841 (Fed. Cir. 1984). The absence of any element of the claim from the cited

reference negates anticipation. *E.g., Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 U.S.P.Q. 1264 (Fed. Cir. 1984).

Applicant respectfully submits that the applied document, *i.e.*, alleged admitted prior art (figure 1), does not meet this standard of anticipation. Accordingly, Applicant respectfully traverses this rejection.

In general, there are two basic heat exchange concepts - that of the evaporator and that of the heater core. Fins must be designed differently depending on the type of heat exchanger at issue, *i.e.* one cannot talk about fins and heater core and come to the conclusion that the same rules would apply to evaporator and fins.

Yamamoto et al. '935 relates to heater cores, not evaporators. In the heater core, heat transfer differs from an evaporator. As one of skill in the art would appreciate, in the heater core there is no condensation/moisture in air, so condensate is not formed; *i.e.*, not accounted for in the fin design. In an evaporator, on the other hand, condensation is important, so the design and roles of the fins are different. This means that the dimension range for fins would, of course, differ between a heater core and an evaporator. A disclosure for a heater core range would be far from obvious to use by one of ordinary skill in the art of evaporators, who is aware of the different needs in these two applications.

The term "evaporator" is not term of intended use. Rather, it is a positive statement of the invention. Thus, amended claim 1 is not anticipated by Yamamoto et al. '935.

For these reasons, Applicant respectfully submits that the Section 102(b) rejection of claim 1 has been misplaced, and requests withdrawal of the same. In the event that the Examiner maintains this rejection of claim 1 in a future written communication, the Examiner is requested to point out with specificity where the prior art teaches using the claimed flat-top antenna, including passages in the prior art that describe each of the claimed features.

Obviousness

First, claims 7 and 16 depend on claim 1 and include all of the distinguishing features thereof. Therefore, claims 7 and 16 are not rendered unpatentable by Yamamoto et al. '935 for the reasons discussed above and for the additional reason that the added subject matter of the dependent claims, when taken in conjunction with the features of claim 1, is neither disclosed in nor reasonably suggested by the applied art.

Okamoto et al. '612 refers to inner fin exchanger; i.e., fins within the refrigerant channels. The Okamoto et al. '612 disclosure is not analogous with fins where the exchange is with ambient air, so the fin design/rules are different for these two scenarios, and it would not be obvious or even technically rational for an inventor to combine a disclosure related to inner fin for an exterior fin application.

For these reasons, Applicant respectfully requests reconsideration and withdraw of the Section 103(a) rejection.

Applicants believe that no fee is required for this submission. However, should a fee be due, please charge such fee to Deposit Account No. 50-0548.

If, after reviewing the above amendments and remarks, the Examiner believes that any issues remain unresolved, the Examiner is respectfully requested to contact the undersigned, by telephone, to schedule an interview to address such issues.

Respectfully submitted,



Matthew Stavish
Reg. No. 36,286

LINIAK, BERENATO & WHITE
6550 Rock Spring Drive, Suite 240
Bethesda, Maryland 20817
Telephone: (301) 896-0600
Facsimile: (301) 896-0607